

# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>CO 0110 PCT/HdG/K</b>	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. <b>PCT/EP 03/06903</b>	International filing date (day/month/year) <b>27.06.2003</b>	Priority date (day/month/year) <b>28.06.2002</b>
International Patent Classification (IPO) or both national classification and IPC <b>B65B55/02</b>		
Applicant <b>CORUS STAAL BV</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of    sheets.

3. This report contains indications relating to the following items:
 

I	<input checked="" type="checkbox"/>	Basis of the opinion
II	<input type="checkbox"/>	Priority
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	<input type="checkbox"/>	Lack of unity of invention
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	<input type="checkbox"/>	Certain documents cited
VII	<input type="checkbox"/>	Certain defects in the international application
VIII	<input type="checkbox"/>	Certain observations on the international application

Date of submission of the demand  <b>28.11.2003</b>	Date of completion of this report  <b>01.09.2004</b>
Name and mailing address of the international preliminary examining authority:  <b>European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465</b>	Authorized Officer  <b>Johne, O</b>  Telephone No. +49 89 2399-7232  

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP 03/06903

### I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

#### Description, Pages

1-7 as originally filed

#### Claims, Numbers

1-7 as originally filed

#### Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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EXAMINATION REPORT**

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	2-5,7
	No: Claims	1,6
Inventive step (IS)	Yes: Claims	
	No: Claims	1-7
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**International application No. **PCT/EP 03/06903****Item V**

1. Reference is made to the following documents (D):

D1: DE-A-4404083  
D2: US-A-5125528  
D3: US-A-6213337

2. The subject-matter of claims 1 and 6 is not new in the sense of Article 33(2) PCT with respect to prior art D1:

2.1. Claim 1:

D1 shows namely a method of providing a heat treated filled and closed can, comprising the consecutive steps of filling a metal cup, closing the metal cup with a lid making a gas tight heat treatable can and heat treating the can (see D1 claims 1, 16, as well as column 1, lines 25 to 33 and line 65), wherein measures are taken to achieve an under-pressure in the can after closing the cup (see D1 column 5, lines 15 to 19) wherein the can is of a flexible type (see D1 column 1, lines 4 to 5 "...Konservendose..."; although it is not explicitly mentioned in D1 that this can is of a flexible type, the person skilled in the art knows that at least the side walls of cans are flexible).

Therefore all the features of claim 1 are known from D1.

2.2. Claim 6:

The additional features of dependent claim 6 are also known from D1 (see figs 1 and 2d, ref. no. 30).

3. The subject-matter of claims 2 to 5 and 7 does not involve an inventive step in the sense of Article 33(3) PCT:

3.1. Claim 7:

The subject-matter of claim 7 is distinguished from the subject-matter of claim 1 by a can which is of a rigid type and wherein the can comprises a lid of the easy pull off type adhered by a sealant to the metal cup.

Since rigid cans are also known from D1 (see column 1, lines 4 to 5 and 66 to 67 and column 3, line 63 "...festem Verpackungsbestandteil...") the subject-matter of claim 7 is distinguished from D1 merely by a can, which is closed with a lid of the easy pull off seal on type adhered by a sealant to a metal cup.

This distinguishing feature clearly belongs to the common general knowledge in the field of manufacturing heat treated filled and closed cans (see for example D2 figures 1 to 16, column 3, lines 54 to 65 and column 4, line 40). The inclusion of a lid of the easy pull off type adhered by a sealant to a metal cup in a method according to D1 is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill.

**3.2. Claims 2 to 5:**

Dependent claims 2 to 5 do not contain any additional features which, in combination with the features of any claim to which they refer meet the requirements of PCT with respect to inventive step (see D2 figures 1 to 16, column 3, lines 54 to 65 and column 4, line 40 to claim 2; D3 fig. 5 to claims 3 to 5).

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Fig. 2